23rd April 1948] [Sri B. Narayanaswami Nayudu]

liable to pay compensation! When a proclamation is there previously, it will be known that the inhabitants of a certain area alone will be liable, but in this case no inhabitant knows whether he is liable or not. It is left entirely to the executive to say that. It is an infringement of the first principle, namely, that you must take away the rights of property and individual liberty only after proper notification. The plunder might occur in Tanjore and they might say that Dr. John and Mr. Narayanaswami Nayudu sitting in Madras have incited these people and they must be made liable. Therefore, the fear is not at all imaginary. The amendment only seeks to clothe the executive with supreme powers over the sacred rights of private property and individual liberty."

The question that the Bill be passed into law was put and carried.

(5) THE MADRAS AIDED INSTITUTIONS (PROHIBITION OF TRANSFERS OF PROPERTY) BILL, 1948 (L. A. BILL NO. 7 OF 1948)

THE HON. SRI K. MADHAVA MENON :—" Sir, I beg to move—

'*that the Madras Aided Institutions (Prohibition of Transfers of Property) Bill,* 1948 (*L.A. Bill No.* 7 *of* 1948) [a] *as passed by the Legislative Assembly, be taken into consideration at once.*'

" Sir, I am sure that this Bill will not raise much of a controversy."

MR. PRESIDENT :—" The Hon. Minister need not be so sure." (Laughter.)

THE HON. SRI K. MADHAVA MENON :—" I have still some faith in the reasonableness of people, Sir."

DR. V. K. JOHN :—" It is an unnecessary insinuation, Sir. I seriously object to it. I do not like that every time the Government should insinuate against the Opposition."

THE HON. SRI K. MADHAVA MENON :—" The hon. Member assumes that I allege want of reason on the part of the Opposition. I did not mean it. It may be as well on my part, Sir."

DR. V. K. JOHN :—" Sir, why cannot we have dispassionate and disinterested discussion of matters on a high level without bringing in personalities? "

THE HON. SRI K. MADHAVA MENON :—" If my hon. Friend has a guilty conscience, I cannot help, Sir."

MR. PRESIDENT :—" I think the Hon. Minister need not provoke him further."

DR. V. K. JOHN :—" Why can't the Hon. Minister move his Bills without any remarks against the Opposition? . . ."

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[a] **Printed as Appendix VII on pages 306–309 infra.**

THE HON. SRI K. MADHAVA MENON :—" I am not yielding, Sir. The Statement of Objects and Reasons to the Bill says :

'Where grants are made by Government for the acquisition of any land or the construction of any building for educational purposes, one of the conditions imposed is that the land or building should not be alienated or used for any purpose other than an educational purpose, for a specified period ranging from 20 to 99 years. If this condition is broken, a proportionate part of the grant has to be repaid to the Government. The managers of some educational institutions have recently taken advantage of the considerable increase in the value of immovable property, to sell lands or buildings acquired or constructed with the aid of Government grants, with a view to making a profit out of the transaction. In such cases, even after a proportionate part of the grant has been repaid to the Government, a handsome surplus remains in the hands of the managers. Government consider that this highly objectionable practice should be put an end to at once, and that, as in the English School Grants Act, 1855, any land or building for which an educational institution has received a Government grant should not be transferred by the management without the specific permission of the Government. The same principle should obviously apply where the land or building was originally Government property and has been transferred to the institution by Government. The Government also consider that any other public institution which has received aid from them, for example, a hospital, should be treated in regard to this matter in the same manner as an educational institution '."

MR. PRESIDENT :—" I see Dr. John seems to be very much worried over the remark."

DR. V. K. JOHN :—" I should like those remarks to be withdrawn, Sir. Otherwise . . ."

THE HON. SRI K. MADHAVA MENON :—" If my hon. Friend holds out a threat, Sir, he cannot expect me to withdraw."

MR. PRESIDENT :—" It is not necessary to provoke him any further. Considering the atmosphere in the House, I think the Hon. Minister may withdraw his remark."

THE HON. SRI K. MADHAVA MENON :—" If Dr. John feels it so keenly, I withdraw it, Sir.

4-45 p.m. " It was not intended for Dr. John. If I am prepared to give, I am prepared to take also."

MR. PRESIDENT :—" That we all do including myself."

THE HON. SRI K. MADHAVA MENON :—" I am not going to complain or cry if a little strong word is used. As I said, Sir, Government also consider that any public institution which has received aid from Government, for instance, hospitals, should be treated in the same manner as an educational institution. Clause 3 of the Bill says: ' the Government may, in their discretion, by order permit the transfer of any such land or building under two conditions, one, the transfer is made in furtherance of the purpose of the institution, and two, for some other valid reason justifying the transaction. In the first case, only a proportionate part of the grant or of the market value of the property given by Government will have to be refunded, but in the other case, the entire market value or the entire grant will have to be refunded. This is the principle of the Bill. The Bill was referred to a Joint Select Committee and only very minor changes were made by the Joint

Select Committee and it was approved by the other House. It has now come up here for approval. I move, Sir, that it be taken into consideration at once.''

* SRI R. SURYANARAYANA RAO :—'' Sir, I do not propose to detain the House for long. We are very thankful to the Government, as we mentioned at the time the Bill was introduced, for bringing forward this Bill enabling the Government to have a hold on the property purchased or brought into existence with the help of the grants made by Government. We are also gratified that the Select Committee has brought in the local authorities also because they are as much liable to abuse the grants made by Government as other institutions are likely to abuse them. Sir, when the Bill was introduced by the Hon. Minister for Education—incidentally I may say the Hon. Minister, Mr. Madhava Menon is suffering from the strain of vicarious responsibility inasmuch as he has to father so many pieces of legislation for which he is not responsible—he told us that this Bill is brought forward, because the Government had an idea of not only giving grants but also giving loans to institutions to enable them to purchase lands either for playgrounds or for the construction of buildings. I wish a provision had also been made to cover such cases . . . .''

MR. PRESIDENT :—'' What is the matter, Dr. John? I hope you are not going under protest.''

DR. V. K. JOHN :—'' I want to go away but not as a protest. I have some work to attend to.''

SRI R. SURYANARAYANA RAO :—'' I wish the Joint Select Committee had included some amendment in this Bill to cover dispensaries, playgrounds, etc., acquired with the help of loans. You may remember, the Hon. Minister for Education told us that the question of giving loans also for the purpose of constructing school buildings, hospitals, etc., was under the serious consideration of Government. I wish, Sir, in some general way, that had been brought in, instead of merely mentioning that only those buildings or lands that are acquired with the grants will come under this Bill. Anyhow it is a good piece of legislation and I hope it will help the institutions which have managed to build buildings and to use them for the purposes for which they are intended, instead of selling them, prompted by the high prices they may fetch and also put some restraint on the local authorities who are also tempted to part with their lands and buildings because of the high prices that may be offered. I hope, Sir, that when the Government decide to give loans also, in addition to grants, for the construction of buildings, or acquisition of grounds, they will amend this Bill in order to cover also such cases, so that even buildings acquired or built with the help of loans received from Government on easy terms, are not sold away because they fetch better prices. With these few words, Sir, I have great pleasure in supporting this measure and I hope this will assist Government in preventing the properties of schools and hospitals being sold away to others.''

THE HON. SRI K. MADHAVA MENON :—'' One word, Sir. There is of course some force in what Mr. Suryanarayana Rao has

said. The question of giving protection even to buildings constructed with the help of Government loans will be examined by Government and if necessary, an amending Bill introduced.''

The motion that the Bill be taken into consideration at once was put and carried.

Clause 2 was put and carried.
Clause 3 was put and carried.
Clause 4 was put and carried.
Clause 5 was put and carried.
Clause 6 was put and carried.

Clause 7.

* SRI B. BHIMA RAO:—'' I want to say a few words, Sir before this clause is put to vote. As it reads, clause 7 is all-embracing. I am, of course, in favour of the principle of the Bill, but my objection is only to the phraseology of clause 7 of the Bill. It is only when the provisions of section 3 or of sections 4 and 5 have been contravened that this clause gives power to the Government to realize the amount due to them without prejudice to any mode of recovery provided in any other law for the time being in force, that is in a manner which is provided for by the Revenue Recovery Act, by proceeding against immovable properties or even by arresting the person who is responsible for this default. In addition to these provisions, the clause provides that the amount should be recovered from the properties of the institution or the manager thereof, as if it were an arrear of land revenue due from such institution or manager. Supposing this amount which has been brought from the vendee without necessary permission, has been utilized for the purposes of the institution, would it be fair to proceed against the properties of the institution? Then, Sir, the words ' or from the manager ' are used. For instance, the defaulting manager might have been removed and any other manager might have been appointed in his place. The clause gives power to proceed against the succeeding manager also. I do not think that that was what was meant by those who have been responsible for the initiation of this legislation. If the expression was, ' or from the defaulting manager ', I do not think anybody could have any objection, but if the word ' manager ' means, the manager who has succeeded the one who has committed a breach of trust, I think this provision should not have been incorporated. I do not like to suggest an amendment at this stage, because it has passed the Assembly stage and has come here for approval. I, therefore, wish to make only a suggestion to the Ministry to make it quite clear, because when we enact a provision like this, we give power to the Collector, and in some cases it is not even the Collector of the district that attends to it, but it is the Tahsildar or the Revenue Inspector. Sir, we know that before the Congress Ministry resigned in 1939, power was given to the revenue authorities to realize any amount due to them as if it were an arrear of land revenue and the advantage was taken by them of such a power. When we, as lawyers, had to file some documents in court, we eventually found

we were liable for penalty, and some lawyers were proceeded against and not the clients. In fact, in two cases, I got warrants for attachment of my movable property. So, Sir, you cannot depend upon the lower classes of revenue officials to use their discretion properly and rightly. When you give a large measure of power in their hands, I am sure they will certainly abuse those powers. So, Sir, I would request the Ministry to put in a proper phraseology particularly in regard to this clause 7, as early as possible."

THE HON. SRI K. MADHAVA MENON :—" Sir, I shall get these doubts raised by Mr. Bhima Rao, examined later. So far as I am concerned, I do not have that doubt as he has. Section 3, sub-section (2) says, ' the Government may permit if the transfer is made in furtherance of the purpose of the institution or of similar purposes approved by the Government and the assets resulting from the transfer are to be wholly utilized in furtherance of the said purposes '. So that, Sir, if any transfer is made in furtherance of the purposes of the institution, Government are not entitled to recover the money, but if only part of it is used for the purpose of the institution and part by the manager, then the Government can ask for the recovery of the amount from the institution. Of course, there is an appeal provided to the District Judge whether the compensation claimed is correct or not. If Sri Bhima Rao's case is, if the money has been spent in furtherance of the purpose of the institution, I say that is provided for. Secondly, without prejudice to the mode of recovery this Government is at liberty to file a suit in the civil court rather than under the Revenue Recovery Act. In regard to the objection that the amount should not be collected from the manager, I may say, that the manager is not the individual, but whoever is the manager for the time being, is liable under the law. Perhaps a subsequent manager may come in and he will be held liable for the amount. The action will lie against the manager of the institution and not against the particular individual who is the manager. I do not think a difficulty like that will arise. However, I will have the matter examined."

MR. PRESIDENT :—" By ' manager ', you mean the manager who has been removed or any other man that comes in his place. According to the strict wording of the section, you have to proceed against the institution or the manager, not against the removed manager. You do not want to proceed against the institution because the institution is not liable."

THE HON. SRI K. MADHAVA MENON :—" There is chance of an interpretation like that and I will have the question examined, Sir."

Clause 7 was put and carried.

Clause 8 was put and carried.

Clause 1 was put and carried.

The Preamble was put and carried.

THE HON. SRI K. MADHAVA MENON :—" I move, Sir—
' that the Bill be passed into law.' "

5 p.m. ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" Mr. President, Sir, I had no intention to detain the House for any length of time, but I feel, Sir, in a measure like this we have to support the Government because they are doing a right thing. I would have simply kept quiet but for the fact that there was some unpleasantness here and I want to assure the Goverment, particularly my hon. friend Mr. Madhava Menon that we are doing everything in a good spirit here. It is my belief and I have always expressed it on the floor of this House, as I have said this morning, that we have a very polite and humorous President in you and you really make the proceedings of the House, on intricate matters, lively. I appreciate the manner in which my hon. friend Mr. Madhava Menon has been dealing with these Bills and he certainly was very chivalrous and sportsmanlike in withdrawing some of the remarks which one need not take in any bad spirit. In transacting our business, we have to bring to play a certain measure of humour so that there may be liveliness and I assure the Government that we do not, on our part, take all these things very seriously. As a matter of fact, I have been noticing that the Ministers have always been polite to us and we are thankful to them for their politeness and if, on account of some irksomeness or some other reason, one or two of us feel at a particular moment that we have been aggrieved, then, I request the Government to think that we are also human beings and I feel, Sir, that my hon. friend Mr. Madhava Menon is somewhat in an agitated mood and I express to him that we really very much appreciate the manner in which he takes our remarks and criticisms but he takes them in a very light-hearted manner. He claims to possess a thick skin and if he has got a thick skin, he must also grant that we also are equally thick-skinned. We do not take objection to this and we appreciate the manner in which he has taken our criticisms and that must be the spirit in which we have to work. I stood up on this occasion in order that there may not be any misunderstanding and that there may not be any unpleasantness particularly in this House where there has not been any unpleasantness so far. Particularly, I cannot forget the fact, Sir, that you have always tried to pacify both sides; you have been very impartial, just and fair to both sides; and in fact I venture to say, you have been more mindful of the interests of the Opposition than of the Government though you belong to that Party. Of course, Sir, you are above party and nobody doubts that. But, Sir, we have to confess that you belong to the Congress party and in spite of it, you have been more mindful of the interests of the Opposition than of the other side. So, with these remarks I support the motion."

THE HON. SRI K. MADHAVA MENON :—" Mr. President, Sir, let me assure you, I had never intended, said or caused any personal feeling to be raised in any sort of debate. It has never

been my intention and I have never done it and if anybody feels for it, I am sorry. I have only repeated the same words which have been hurled at me and perhaps I might have hurled it back sometimes with greater force or less force. But that is only in the natural process of the debate and I never meant it as any personal attack against anybody. It is far from me and I have never done it and I shall never do it."

MR. PRESIDENT :—" I very much appreciate the sentiments expressed by hon. Member Mr. Farookhi and I value them especially as it comes from the Deputy Leader of the Opposition. So far as I am concerned, it has always been my endeavour to see that a cool atmosphere prevails in the House and that is why even resort to external aids like the thattis have been put up around the House (laughter). One aid to keeping our heads cool is that we must understand people aright. Mr. Narayanaswami Nayudu is always very incisive in his attacks but he never keeps anything in his mind; he has a method of talking all his own and probably that has ruffled Mr. Madhava Menon a bit but I do not think he was so much provoked by Dr. John as by Mr. Narayanaswami Nayudu; no doubt the brunt of the attack was on Dr. John though the provocation came from Mr. Narayanaswami Nayudu. I appreciate the manner in which the Hon. Minister received and returned the criticisms and I wish that Dr. John would do the same. I have got the assurance of the Deputy Leader of the Opposition that Dr. John did not leave the House in a huff and had some other important business outside. I was anxious that we should mollify him and not leave anything behind and that is why in order to pacify him I suggested to the Minister to withdraw his remarks and I appreciate, he did it. Incidentally, encomiums fell upon me from the Deputy Leader of the Opposition but I should think that the purpose of any person occupying the Chair is to see that things go on properly and in a right spirit and people do not fall out with each other. I hope that this will serve to keep us in the right path."

The motion was put and carried and the Bill was passed into law.

The House adjourned till 2-30 p.m. the next day.

V.—PAPERS LAID ON THE TABLE OF THE HOUSE.

(1) *The Police (Madras Amendment) Bill,* 1947 *as passed by the Legislative Assembly and received therefrom the Council.*

(2) *The Madras AiAded Institutions (Prohibition of Transfers of Property) Bill,* 1948 *as passed by the Legislative Assembly and received therefrom the Council.*